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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/873,284

06/05/2001

Ichiro Koyama

1506.1009

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10/17/2006

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EXAMINER

HOLZEN, STEPHEN A

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/873,284	KOYAMA, ICHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen A. Holzen	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,3,6,8,15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,6,8,15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/9/2006 have been fully considered but they are not persuasive. Applicant has argued that the administrator of CPU1 is limited to an agent of a vendor or a retailer. The examiner cannot find these limitations in the claims, and therefore concludes that applicant's arguments are more specific than the claim language.
2. Applicant has further argued that Aggarwal et al does not teach that it is known to extract order data. The examiner disagrees and asserts that Aggrwal teaches data mining which is the extraction of data.

In the non-final action mailed on 5/9/2006 the examiner asserted: "The examiner takes OFFICAL NOTICE that he personally has asked employees at Macys to wrap purchased products in specific paper. Furthermore the examiner takes OFFICAL NOTICE that he has had to make the decision between Birthday and Christmas wrapping paper. The examiner concludes then that it is known to select a specific wrapping paper based on the holiday." Since the applicant failed to traverse these statements, these statements are now considered as admitted prior art.

3. Claims 2, 3, 6, 8, 15 and 17 are pending.
4. Claims 2, 3, 6, 8, 15 and 17 are rejected.

***Claim Rejections - 35 USC § 103***

5. Claims 2, 3, 6, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin (4,992,940) in view of Schutz et al (2002/0030854) and further in view of Aggarwal et al (6,094,645).

Please see Col. 1 lines 65 – Col. 2, lines 50 to Dworkin.

Re – claims 2 and 3: Dworkin discloses a method of selling and buying goods online comprising a method that helps a user to locate and purchase goods having desired characteristics, and also having the best available price. The invention employs a computer linked to a database containing information about products and the vendors who supply them. The database may be located in the memory of the central computer, but could also be located elsewhere. There is a central computer, which serves many users. The central computer may be located far away from all such users. In practicing the invention, the user must first tell the system the general type of product or service desired. This step can be done by selecting an appropriate item from a menu. In response to the user's choice, the system displays a template, which gives various technical criteria for the product.

By filling in one or more spaces on this template, the user can tell the system the criteria to be deemed minimum requirements. The system then searches the database for all products or services, within the selected category, which fulfill these minimum requirements. Then the system displays, to the user, general information about the products or services retrieved.

The system then shows the user certain basic information such as the manufacturer, model number, and range of available prices. This initial display also associates each product or service with an internal number, or other designator, which the user can employ to obtain further

information. When the user enters the number or identifier of a product or service appearing on the above-described display, the system shows the user the names of the suppliers from whom that product or service can be obtained.

The system also shows the user the prices available from each supplier. At the user's request, the system can also display a set of more detailed specifications for The chosen product or service. The user can then order a product through the system by selecting one of the retrieved products by its identifier. The system prompts the user for the information necessary to complete the transaction. The system then generates the appropriate documents for recording the transaction, and, if necessary, forwards the documents to the selected supplier. The order can also be transmitted to the supplier electronically.

Dworkin does not teach selecting a seller based on the type of wrapping paper used to wrap the products.

This difference however does not make the present invention patentable over the prior art.

In terms of products: A specification is a set of requirements (a documented need of what a particular product or service should be.)

Applicant is using wrapping paper as qualitative factor specified by a buyer that goes into final selection of a product.

The examiner asserts that the specification of a product factor, prior to selection of a retailer is known and taught by Dworkin where the suppliers display a template giving product

specifications, the user tells the system which specifications are required, and the system retrieves and displays all products that fulfill the buyers specifications.

Applicant has admitted on the record (by failing to traverse the examiner's OFFICIAL NOTICE) that wrapping paper is a known factor that goes into the final presentation of a gift. The selection of a specific wrapping paper is part of the final product (i.e. the gift). The examiner concludes then that it is known to select a specific wrapping paper based on the holiday.

The examiner asserts that the selection of wrapping paper itself does not lend to patentability of the present method because wrapping paper is a factor that goes into the final product (gift). Other factors include the (1) shipping (2) cost (3) availability (4) location of supplier (5) person you are presenting the gift to, etc.

Each of these factors goes into the selection of a product, regardless of when the selection of these factors takes place.

Dworkin teaches the selection of specific factors prior to the selection of a supplier. Since it is known (via applicant's admitted prior art) that wrapping paper is a known factor used to determine the final presentation of the a product (gift), it would have been obvious for one having ordinary skill in the art, at the time the invention was made to choose a supplier based on a pre-specified wrapping paper (factor/option).

The examiner asserts that the phrase "packaging material" could be replaced with another phrase such as "product option #1" without substantially altering the scope of the claim.

For example, see claim 2: "storing --product option #1-- data defining correspondence between --product option #1—information indicating a --product option #1— and retailer information indicating a retailer producing the --product option #1—as well as the goods data

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which includes good description information describing goods for sale into the storage...and so forth.

It is important to understand that the examiner is asserting the following:

- Dworkin teaches selecting a retailer based on a production option
- Wrapping paper = product option
- The step of choosing wrapping paper is known
- It would therefore be obvious to select a retailer based on wrapping paper for the purpose receiving the most desirable final gift presentation.

Dworkin discloses, “the system prompts the user for the information necessary to complete the transaction. The system then generates the appropriate documents for recording the transaction, and if necessary forward the documents to the selected supplier. The order can also be transmitted to the supplier electronically. Dworkin does not specifically state what all is being transmitted and does not specifically generate delivery instruction data or out the instruction data to a right agency.

Schutz et al disclose a method for selling goods using a computer comprising

Storing retailer information (51), as well as goods data (the type of flowers ordered), which includes good description information describing goods for sale into the storage (see ¶150 and 156)

Outputting offering data to a customer (¶150 and 156), offering data includes good description information (type of flower desired) and packing material (see ¶0024 line14, #64 and ¶0156),

Receiving designation data (12), which includes good designation information designating goods the customer desire to buy, packing material (#64 and ¶0021 lines 9-10) and delivery destination information (#72, #74), specifying a delivery designation of the goods

Generating order data (¶ 0021 lines 4-10) which includes customer information that indicates the customer (#72, and #74), and the good designation information (type of flower) in the designation data received

Outputting the generated order data to a retailer (#51 and #18)

Generating delivery instruction data (see Abstract lines 25-28), including the packaging material list (see ¶ 0021 line 9-10), the good designation information (type of flower) and the delivery destination information (#72, #74),

Outputting the generated delivery instruction data to a freight agency (¶ 0080.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to generating order data which includes customer information that indicates the customer and the good designation information in the designation data received outputting the generated order data to a retailer, generating delivery instruction data, including the packaging material list, the good designation information (type of



flower) and the delivery destination information, outputting the generated delivery instruction data to a freight agency for the purpose of allowing a buyer to purchase goods on line (reduce buyer burden).

Re – Claim 15: Schutz et al discloses the packaging material data further includes payment mode information indicating one more payment modes provided by the retailer indicated by the retailer information in the packaging material data (§0099 & §0100), said offering data further includes the payment mode information in the packaging material data (all the data is transmitted simultaneously), said designation data further includes payment mode designation information designation a payment mode selected by the customer based on the payment mode information in the offering data (all information is transmitted simultaneously with the other data), said order data further includes the payment mode designation information in the designation data (all information is transmitted simultaneously with the other data).

Re – Claim 6: Schutz et al discloses the packaging material data further includes payment mode information indicating one more payment modes provided by the retailer indicated by the retailer information in the packaging material data (§0099 & §0100), said offering data further includes the payment mode information in the packaging material data (all the data is transmitted simultaneously), said designation data further includes payment mode designation information designation a payment mode selected by the customer based on the payment mode information in the offering data (all information is transmitted simultaneously with the other data), said order data further includes the

payment mode designation information in the designation data (all information is transmitted simultaneously with the other data).

Dworkin, as applied above, do not disclose the steps of extracting data nor gathering statistics from information in the extracted order data.

Aggarwal et al however discloses that it is well known in the art to extract data from an online environment that indicates buyer preferences (Col. 1, lines 25-30) and to compile the statistics from sales transaction (see Col. 1, lines 63) for the purpose of “decision making” and understanding buyer behavior (see Col. 1, lines 25-30). Aggarwal et al broadly terms this searching and compiling of buyer statistics as “data mining”. It would have been obvious to use the methods of Aggarwal et al for the purpose of extracting and gathering statistics concerning both buyer preferences and trends for the purpose of increasing business opportunities.

6. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin (4,992,940). Dworkin does not disclose charging a buyer for the product option. Applicant has failed to traverse the examiner’s OFFICIAL NOTICE that the final purchase price of products changes with the selected options. The subject matter which applicant failed to traverse is not considered admitted prior art. Therefore applicant has admitted on the record that it is well known in the art that the final purchase price of products change with the selected options.

It would have been obvious to one having ordinary skill in the art to calculate the total price of the goods by adding the price of the options (wrapping paper) to the price of the goods ordered since a vendor would not continually engage in agreements with buyers where such agreements would result in the seller losing revenue.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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